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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/809,083	03/25/2004	Christopher L. Oesterling	GP-304641 (2760/164)	7667
7590 06/04/2007 General Motors Corporation Legal Staff, Mail Code 482-C23-B21 300 Renaissance Center P.O. Box 300 Detroit, MI 48265-3000			EXAMINER EKONG, EMEM	
			ART UNIT 2617	PAPER NUMBER
			MAIL DATE 06/04/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/809,083

Applicant(s)

OESTERLING, CHRISTOPHER L.

Examiner

EMEM EKONG

Art Unit

2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 24 March 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 21-40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 21-40 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments with respect to claims 21-40 have been considered but are moot in view of the new ground(s) of rejection.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 21-25, 38, and 40 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 5,767,804 to Murphy.

Regarding claim 21, Murphy discloses a method of operating a vehicle telematics device as a communication gateway (col.7 lines 23-24, tracking unit 10), comprising the steps of: receiving a transmission at the vehicle telematics device on a primary vehicle [i.e. tracking unit 10, vehicle 42] (col. 7 lines 25-27, tracking unit 10 listens for and detects signals transmitted from transceiver device 16) wherein the transmission is sent from a wireless modem unit (i.e. transceiver device 16) on a secondary vehicle (col. 3 lines 63-66) equipped to communicate through a first communication protocol (col. 6 lines 38-43, protocols used for short range are well known); establishing communication between the vehicle telematics device on the primary vehicle (see fig. 3, col. 4 lines 39-40, col. 7 lines 38-40, col. 7 lines 43-45, communication link 18 and 22) and a service provider (base station 20) through a second communication protocol for which the

secondary vehicle is not equipped (col. 4 line 64-col. 5 line 26); establishing a communication gateway between the secondary vehicle and the service provider utilizing the vehicle telematics device on the primary vehicle (see fig. 3, communication link 18 and 22); and communicating data between the secondary vehicle and the service provider via the communication gateway (col. 4 lines 41-45, col.7 lines 48-55).

Regarding claim 22, Murphy discloses the method of claim 21, wherein the receiving step is carried out in response to a polling message transmitted from the primary vehicle (col. 4 lines 10-15, transceiver device is activated by an activation signal transmitted from tracking unit 10).

Regarding claim 23, Murphy discloses the method of claim 21, wherein the receiving step further comprises receiving a request from the secondary vehicle to establish a communication gateway for the secondary vehicle to the service provider (col. 7 lines 25-27, inherently, a request is received during the association process).

Regarding claim 24, Murphy discloses the method of claim 21, wherein the first communication protocol includes at least one communications protocol selected from the list consisting of: 802.11 series, Bluetooth, Wi-Fi, direct-sequence spread spectrum, frequency-hopping spread spectrum, and shared wireless access protocol (col. 6 lines 38-43, protocols used for short range are well known).

Regarding claim 25, Murphy discloses the method of claim 21, wherein the second communication protocol is a cellular packet protocol (col. 4 line 64-col. 5 line 26).

Regarding claim 38, Murphy discloses a method of operating a vehicle telematics device as a communication gateway (col. 7 lines 23-24, tracking unit 10, vehicle 42), comprising the steps of: detecting at the vehicle telematics device on a primary vehicle a wireless access point to a local secondary vehicle (col. 7 lines 25-27, tracking unit 10 detects signals transmitted from transceiver device 16); establishing communication between the secondary vehicle and the vehicle telematics device on the primary vehicle utilizing a first communication protocol (col. 6 lines 38-43, protocols used for short range are well known); establishing communication between the vehicle telematics device on the primary vehicle and a service provider [base station 20] (see fig. 3, col. 4 lines 39-40, col. 7 lines 38-40, col. 7 lines 43-45, communication link 18 and 22) utilizing a second communication protocol not supported by the secondary vehicle (col. 4 line 64-col. 5 line 26); notifying the service provider [base station 20] from the vehicle telematics device of the identification of the secondary vehicle (col. 5 lines 52-58, and col. 8 lines 47-48); communicating triggers to the secondary vehicle from the service provider via the primary vehicle (col. 4 lines 8-16, and col. 4 lines 55-63).

Regarding claim 40, Murphy discloses the method of claim 38, further comprising the step of triggering the secondary vehicle to provide diagnostic data to the service provider via the primary vehicle (col. 4 lines 8-16, 24-36, and col. 4 lines 55-63).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Murphy in view of European Patent Application No. 0866509 A2 to Wledeman.

Regarding claim 23, Murphy discloses the method of claim 21, however, Murphy fails to specifically disclose wherein the receiving step further comprises receiving a request from the secondary vehicle to establish a communication gateway for the secondary vehicle to the service provider.

Wledeman discloses receiving a request for establishment of a communication gateway to the service provider (col. 2 lines 2-10).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the invention of Murphy, and have the receiving step further comprises receiving a request from the secondary vehicle to establish a communication gateway for the secondary vehicle to the service provider as disclosed by Wledeman for the purpose of establishing communication link via gateway to service provider.

7. Claims 24, 27-37, and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Murphy in view of U S Patent No. 6,925,378 B2 to Tzamaloukas.

Regarding claims 24, 27, 28, 34, 35, and 39, Murphy discloses the method of claim 21, however, Murphy fails to disclose further comprising the steps of: receiving a data stream for the communication gateway from the service provider, the data stream including instructions for the communication gateway; and implementing the received instructions receiving instructions in the form of a data stream from the vehicle telematics device of the primary vehicle; and executing the instructions using one or more programs stored on the secondary vehicle.

Tzamaloukas discloses receiving a data stream for the communication gateway from the service provider, the data stream including instructions for the communication gateway; and implementing the received instructions receiving instructions in the form of a data stream from the vehicle telematics device of the primary vehicle; and executing

the instructions using one or more programs stored on the secondary vehicle (col. 23 line 54-col. 24 line15).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the invention of Murphy by receiving a data stream for the communication gateway from the service provider, the data stream including instructions for the communication gateway; and implementing the received instructions receiving instructions in the form of a data stream from the vehicle telematics device of the primary vehicle; and executing the instructions using one or more programs stored on the secondary vehicle for the purpose of implementing received instruction.

Regarding claim 29, Murphy discloses a method of operating a vehicle telematics device as a communication gateway (col.7 lines 23-24, tracking unit 10, vehicle 42), comprising the steps of: detecting at the vehicle telematics device on a primary vehicle a wireless access point for a secondary vehicle (col. 7 lines 25-27, tracking unit 10 detects signals transmitted from transceiver device 16); establishing communication between the secondary vehicle and the vehicle telematics device on the primary vehicle utilizing a first communication protocol (col. 6 lines 38-43, protocols used for short range are well known); establishing communication between the vehicle telematics device on the primary vehicle and a service provider [base station 20] (see fig. 3, col. 4 lines 39-40, col. 7 lines 38-40, col. 7 lines 43-45, communication link 18 and 22) utilizing a second communication protocol not supported by the secondary vehicle (col. 4 line



64-col. 5 line 26). However, Murphy fails to disclose communicating software updates to the secondary vehicle from the service provider via the primary vehicle.

Tzamaloukas discloses communicating software updates to the secondary vehicle from the service provider via the primary vehicle (i.e. mobile egress point, col. 5 lines 11-30, and col. 14 line 58-col. 15 line 1).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the invention of Murphy, by communicating software updates to the secondary vehicle from the service provider via the primary vehicle as disclosed by Tzamaloukas for the purpose of using the gateway in a mobile vehicle such that it communicates update information with other moving vehicles that are in its surrounding area.

Regarding claim 30, the combination of Murphy and Tzamaloukas method of claim 29, wherein the secondary vehicle is not equipped to communicate through the second communication protocol (col. 6 lines 38-43, transceiver device 16 only communicate with tracking unit 10 within range and protocols used for short range are well known)

Regarding claims 31 and 33, the combination of Murphy and Tzamaloukas discloses the method of claim 29, wherein the detecting step further comprises detecting a wireless modem unit on the secondary vehicle (transceiver device 16 in object 12, col. 3 lines 63-65).

Regarding claim 32, the combination of Murphy and Tzamaloukas discloses the method of claims 21, and 29, wherein the receiving step is carried out in response to a polling message transmitted from the primary vehicle (Murphy, col. 4 lines 10-15, transceiver device is activated by an activation signal transmitted from tracking unit 10).

Regarding claim 36, the combination of Murphy and Tzamaloukas discloses the method of claim 29, further comprising the steps of: storing the software updates from the service provider in a database located on the primary vehicle; and updating the secondary vehicle with the software updates when communication is established between the primary vehicle and secondary vehicle (Tzamaloukas, col. 5 lines 11-30, and col. 14 line 58-col. 15 line 1).

Regarding claim 37, the combination of Murphy and Tzamaloukas discloses the method of claim 29, further comprising the steps of: notifying the service provider of an identification of one or more secondary vehicles (Murphy, col. 5 lines 52-58, and col. 8 lines 47-48); initiating one or more programs for updating software on the one or more secondary vehicles; and providing software updates to the one or more secondary vehicles (Tzamaloukas, col. 5 lines 11-30, and col. 14 line 58-col. 15 line 1).

8. Claims 26, and are rejected under 35 U.S.C. 103(a) as being unpatentable over Murphy in view of U S Publication No. 2005/0071079 A1 to Godfrey et al. (Godfrey).

Regarding claim 26, Murphy discloses the method of claim 21, further comprising the steps of receiving identification information from the secondary vehicle at the primary vehicle, however, Murphy fails to disclose transmitting the identification information from the primary vehicle to the service provider for authentication of the secondary vehicle. Godfrey discloses transmitting the identification information from the primary vehicle to the service provider for authentication of the secondary vehicle (pars. 59-60).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the invention of Murphy, by transmitting the identification information from the primary vehicle to the service provider for authentication of the secondary vehicle for authentication purpose.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to EMEM EKONG whose telephone number is 571 272 8129. The examiner can normally be reached on 8-5 Mon-Fri..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lester Kincaid can be reached on 571 272 7922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2617

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



EE

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